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Supreme Court, U.S.
FILED

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In The

**SUPREME COURT OF THE UNITED STATES**

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In Re:

PEPI SCHAFLER

*Petitioner*

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Petition for a Special Writ of Civil Habeas Corpus

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# PETITION FOR A WRIT OF HABEAS CORPUS

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Dr. Pepi Schafler, MSS, JD
Petitioner
10829 Brewer House Road
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(301-881-7079)

## QUESTION PRESENTED

Whether HSBC and M&T banks , who have embezzled , laundered , converted and stolen a noteworthy amount of Petitioner's funds through two forged checks without her knowledge , agreement or endorsement , on behalf of someone with whom they were involved in various and nefarious activities , and thereafter through a racketeering conspiracy with their hires-corrupt officers of the court and bank officers created a system of lies fraud and deceit, and after being ordered by a Court of competent jurisdiction and employing the applicable law to provide restitution to Petitioner, and to proceed to trial to determine damages and other losses endured, embarked on a deliberate attack on the integrity of the courts both on the state and federal level, through gross shameless lies and fraud, brazen serial perjury assisted by bank officers, crude forgery, disrespectful bamboozling of the courts, obstructionist acts violating numerous applicable laws, rules and statutes , creating completely fictional cases not cognizable ,brazenly lying about the judiciary, boasting about their lies and bamboozling , confusing the appellate courts ,creating cases that did not ,could not and would not exist in the real word , using their serial perjury and attaching forgery as well, thereby exploiting , contaminating and compromising the judicial process , depriving Petitioner of her funds for more than two decades, extinguishing any Court's ability to comply with the applicable law , with the only true judgment and order, and with the due process clause of the Fifth Amendment to the Constitution , and the equal protection clause of the Fourteenth Amendment to the Constitution, all because of the respondents's and officers of the court' *crimen falsi*.

**Rule 14.1(b) The parties to proceeding**

HSBC bank USA (absorbed Marine Midland bank)

M&T bank

Scott D. Miller

Phillips Lytle

David Macnamara

Michael B. Powers

James H. French

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## OPINIONS BELOW

United States Court of Appeals for the
Fourth Circuit

In Re :Pepi Schafler Petitioner 10-1995

Order: The petition for rehearing en banc was circulated to the full Court . No judge requested a poll . The Court denies the petition for rehearing en banc. November 16, 2010.

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United States Court of Appeals for the Fourths Circuit
On petition for writ of habeas corpus

In Re: Pepi Schafler 10-1995:
Submitted September 10. 2010
Decided October 14, 2010.

Before Niemeyer, Agee and Keenan, Circuit Judges
Petition denied .

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At a special term of the Supreme Court of the State of New York ,County of Erie , Buffalo NY

Present : George Francis presiding Jjudge
Index No: H-94139
Pepi Summer (Schafler) Plaintiff
vs
HSBC(Marine Midland) bank , M&T bank
Order
Now upon motion of Mattar D'Agostino Plaintiff's attorneys it is hereby :
Ordered Summary Judgment in amount of $95.600
Ordered that a hearing be held to assess her damages
Requested $250.000 .
Signed Chief Judge of the Court, Robert Whalen
Filed: March 3, 1993

## JURISDICTION

28 U.S.C #1651 (a) holds that the Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions, and agreeable to the usages and principles of law. To justify the granting of this special writ , the petition must show that the writ will aid the Court's appellate jurisdiction , that exceptional circumstances warrant the exercise of the Court's discretionary powers , and that adequate relief cannot be obtained from any other court.

28 U.S.C.# 2241 (a) holds that writs of habeas corpus may be granted by the Supreme Court , any justice thereof, the district court and any circuit judge within their respective jurisdiction..While habeas corpus is most frequently used by those that are incarcerated , it can and has been used in various civil and family matters as well,

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Constitution provides for due process: The Fifth Amendment provides that:" no person shall be deprived of property without due process of law"

The Constitution provides for equal protection. The Fourteenth Amendment holds that no person shall be deprived of equal rights under the law.

18 U.S.C.# 1621 defines perjury as the crime of lying after having sworn to be truthful.

UCC 3-419 sets bank rules dealing with forged checks. Banks are responsible for the full amount of forged checks.

## STATEMENT OF THE CASE

This case is about institutional fraud by two corrupt banks and their hires : racketeering , lying , perjuring , swindling disrespectful of the judiciary-officers of the court, whose obstruction of justice has been extremely exploitative of the judicial system , and injurious to Petitioner. Their lies, perjury forgery, gross malfeasance and bamboozling of all courts encountered including state, federal and appellate has gone on for more than two decades, has been continuously prosecuted by nine attorneys on Petitioner's behalf, a task now undertaken pro se.

The case at bar is 100% on point with *Hazel-Atlas Glass Co.v Hartford-Empire Glass Co. 322 U.S. 238* .The fraud in Hazel was institutional , executed and moved forward by corrupt hires, officers of the court. This is exactly the case in the matter at bar:. The fraud is institutional by two corrupt banks , sustained by racketeering , corrupt ,lying, pernicious officers of the court.

## STATEMENT OF RELEVANT FACTS

### .1. THE PLANNED LARCENY

More than two decades ago HSBC and M&T banks in a scheme-part of their racketeering conspiracy on behalf of someone they were involved with in continuous nefarious activities arranged to launder two forged checks on this person's behalf. These two checks representing Petitioner's funds in amount of $95.600 were payable to her , and were removed from an account at Merrill Lynch without her knowledge or assent. These checks without Petitioner's endorsement were accepted for deposit at HSBC bank and honored as such by M&T bank, the drawee bank for Merrill Lynch..These checks were quickly embezzled, laundered and the proceeds removed in cash. The banks were duty bound by law to compensate Petitioner , but refused.

This planned dastardly act by the banks was alleged to be in payment for illegal drugs ,and paid female companionship.

Petitioner's attorney's demands for the return of the funds to the account at Merrill Lynch were met with fairy tales, brazen lies, fantasy perpetrators ,denials that were perjured ,and other shenanigans seeking to shift their legal responsibility for their misconduct.

Since these corrupt institutions resisted all efforts for restitution by Petitioner's counsel , a civil action was filed in state court in Buffalo New York., seeking restitution , and $250.000 in damages and legal fees.

## 2'.. RESPONDING TO THE COURT ACTION WITH LIES AND PERJURY

HSBC bank (MM)and M&T bank took their lawlessness seriously. In addition to their lying officers of the court , HSBC bank designated a bank officer to be the serial perjurer in chief .and liar. The banks's first responses to the complaint were lies to the court and perjury But . to overcompensate for their misconduct , they were quite punctilious about other minutia of civil procedure..

Despite deceptive delays, an appeal, perjury and other shenanigans, the NY State Supreme Court issued an appropriate, lawful order granting Petitioner summary judgment for full restitution and a trial for damages.

This was the last and only authentic fact and law based judicial decision and order not contaminated by Respondents's *crimen falsi. (Page 1 Par 3)*

The banks never appealed this order, instead opting for corrupt deconstruction of same , bamboozling the courts with lies, extensive perjury, exploiting the trust of the judiciary in officers of the court, creating theater of the corrupt.

3. THE DEFENSES FOR THE LAUNDERING AND .THEFT OF PETITIONER'S FUNDS BY HSBC AND M&T BANKS OCCURRED ACCORDING TO PLANS FOR LIES AND OBSTRUCTION BY THEM AND THEIR OFFICERS OF THE COURT.

Starting with the day of the theft of Petitioner's funds until the exposing of their lies, perjury and falsehood more than eighteen years later, .the innumerable proceedings in the state courts had been dominated and contaminated by HSBC and M&T 's lies and the obstruction of justice by their officers of the court. They presented perjured and false documents deceptively weaving them into tales of : the funds are here , there, they were here , they were nearby or Petitioner had compensated herself for the funds they had stolen A very painful and frustrating piece of theater from the corrupt

These lies and falsehoods provided to the lower courts and the appellate courts , are memorialized in several reported appellate decisions. When Petitioner prevailed-they found another lie. And more perjured pleadings.

4. THERE HAD NEVER BEEN A TRIAL IN THIS MATTER: IT WAS ALL ON MOTIONS, WHICH FACILITATED THE "HIT AND RUN" ASPECT OF THE PROCEEDINGS.

There had never been a trial in this matter-only motions therefore the corrupt banks and their lying officers of the court were able to succeed with any bizarre allegations and claims , as long as they could bamboozle a court. They were never required to prove anything they alleged . Just say it and run. This enabled them to lie about the case, about other courts that were not part of this case , just "name dropping " falsely ascribing involvement and verbal directives to them No court could imagine such corruption and lies by "fiduciary institutions" and "officers of the court"

5. FOR THE FEDERAL COURTS HSBC AND M&T BANKS ALONG WITH THE DEVIANT OFFICERS OF THE COURT, PREPARED .NEW UNTRUE INCOHERENT FALSEHOODS , CHANGING THE CONTENT, AND ADDING CRUDE FORGERY TO THE UBIQUITOUS PERJURY AND LIES , AND *CRIMEN FALSI*.

Having exposed the two decades long corruption, fraud perjury and by HSBC and M&T banks and their lying officers of the court in the state courts, where a valid order by a Court of competent jurisdiction was ignored and institutionalized perjury, fraud and racketeering controlled the proceeding, Petitioner moved the case to federal courts in which jurisdiction existed, in the belief that there would be fewer lies and more respect for the Federal Court.

That was an erroneous assumption, because the corrupt officers of the court and their disingenuous employers created new lies: an imaginary narrative of an "action I and action II" Through this bamboozle of the courts they sought to imply that there had been two actions in which they participated, and somewhere in there Petitioner was compensated, but "she still wants money from them".

Evidence for that ? None. Regretfully-they were not asked to provide any evidence for their statements. Instead -to their perjury they added crude forgery. On a perjured document dated July 22 1987, by the County Clerk , they forged another entry next to the old one, applying their own C, Clerk stamp used for forgeries ,that read September 16, 1992 County Clerk's office . This was verified by the bank officer- serial perjurer and the notary whose " commission" expired in May 1988...

This new fraud on the court of "action I and action II had been packaged with 200 pages of completely unrelated printed pages from West Law to "bulk up" the offering

Of course the courts did not read them, but without knowing what miscreant liars these institutions and officers of the court are , surely the courts assumed relevance because they trust officers of the court.

Respondents also tapped into some residual amount of sexism , relying for it to be reciprocated or at least approved of, and spoke disdainfully of Petitioner. This did not alter their lies, perjury and forgery ,and in fact through this very long process Petitioner had been represented by nine attorneys and law firms , all male and their conduct of bullying had been unchanged. The District Court dismissed Petitioner's claim, and ordered Petitioner to pay the miscreants legal costs.

It is an interesting phenomenon that in various jurisdictions the Respondents are able to locate local officers of the court who on their behalf submit to the court perjured, false, and forged documents and attach a statement that they are doing so under the penalty of perjury. They are not illiterate -they can read . Do they not care? Or are they seduced by the miscreants and their ability to deceive,who have been lying for decades without consequences?

## REASONS FOR GRANTING THE WRIT

### (A) The Constitution has been offended

1. The malfeasance in the case at bar offends Article I Section 8, Clause 3- the Commerce Clause which empowers Congress to regulate interstate commerce,while intrastate commerce is left to the states. But banks who are the core of commerce in the United States are regulated by the federal government and it's agencies created for that purpose such as the Department of Treasury, Federal Reserve, the Federal Insurance Dept, and the banking Committees of the house and the senate..

The public interest and commerce demand integrity from from he banking system . In *United States v Lopez , 514 U.S. 549* this Court held: "The Court as an institution and the legal system as a whole have an immense stake in the Commerce Clause jurisprudence . Petitioner believes that this Court has an interest in the conduct of the offending banks in this matter: M&T and HSBC .

2. Petitioner's Fifth Amendment constitutional rights to due process were violated , the fault being the lying officers of the court who bamboozled the courts with so much fraud, lies , perjury that the courts were unable to process the reality that these officers of the court are racketeering swindlers. .

3. Petitioner's Fourteenth Amendment rights to equal protection of law were likewise violated by the onslaught of the morbidly mendacious and corrupt HSBC and M&T banks.

**B. The case at bar is 100% on point with *Hazel-Atlas* et al.**

The gravamen of the present matter is fully on point with the gravamen of *Hazel-Atlas Glass Co. V Hartford -Empire Glass Co. 322 U.S. 238.* The elements in both matters are very similar: in Hazel supra and the mater at bar. Hazel - Atlas and Hartford -Empire are two large institutions, glass manufacturing companies, whereas in the present matter the large institutions are banks..

The fully shared elements that exist in both matters is the corruption , mendacity , fraud , deceit and malfeasance created and executed on their behalf by their hires- officers of the court , and practiced on the Court. There is a minor distinction between Hazel supra and this matter in that the fraud in Hazel with "Mr. Clark" was a forward future directed fraud, whereas in the present matter the benefit of this swindle and fraud by M&T and HSBC banks had already been consummated ,the stolen funds gone, and now -only the coverup of their crimes remained.

In *Hazel* , Justice Black's words , speaking for the Court are applicable to the present matter as well:

> "The Circuit Court thought that Hazel had not exercised proper diligence in uncovering the fraud , and that this should stand in the way of it's obtaining relief. We cannot easily understand how under the admitted facts Hazel should have been expected to do more than it did to uncover the fraud. But even if Hazel did not exercise the highest degree of diligence , Hartford's fraud cannot be condoned for that reason alone . Furthermore, tampering with the administration of justice in the manner indisputably shown here, involves far more than an injury to a single litigant: it is a wrong against institutions in which fraud can not complacently be tolerated , consistently with the good order of society. Surely it cannot be that the preservation of the integrity of the judicial process must always wait upon the diligence of litigants. The public welfare demands that the agencies of public justice not be so impotent that they must always be mute and helpless victims of deception and fraud. Every element of the fraud here disclosed demands the historic power of equity to set aside fraudulently begotten judgments. If we consider nothing but Hartford's sworn admissions we see a deliberately planned and carefully executed scheme to defraud"

Petitioner is this helpless victim of deception and fraud noted by Justice Black , drowning in misconduct , racketeering and deceit , deprived of justice , no matter how frequent and intense the efforts, no matter the order of society, suffocating in lies, perjury and forgery, deprived of her funds and of justice.

The Court was unanimous in the opinion that relief must be granted and the orders obtained by fraud must be vacated, but there was a difference of opinion as to which court: the circuit court or the district court; the majority chose the circuit court. Justice Roberts , who favored the district court along with Justices Reed and Frankfurter wrote:

> "No fraud is more odious than an attempt to subvert the administration of justice"

"The resources of the law are ample to undo the wrong and pursue the wrongdoers . It is complained that members of the bar have knowingly participated in the fraud. Remedies are available to purge recreant officers from the tribunals on which the fraud was perpetrated. "

The deceptive officers of the court in *Hazel* had become so avaricious but also so self assured in their lies and fraud, that they demanded fees from those that used their false patent.

In analogous conduct -might be the norm -the lying officers of the court in the present matter whose latest creation is a piece of incoherent fiction of "action I and action II",having persuaded a Federal District Judge in MD with their, lies , perjury and crude forgery, sought a fee award from the court because after all they are the prevailing party , and the court awarded them fees. Their

## C. This Court has repeatedly and consistently vacated fraudulent judgments

### 1. UNITED STATES V THROCKMORTON.

In *United States v Throckmorton 98 U. S. 98, 61,* Justice Miller speaking for this Court, distinguished two categories off fraud on the Court , and which might be challenged. Fraud on the court from an officer of the court may always be challenged. Fraud on the court vitiates the most solemn contract, documents and judgments, The Throckmorton case is similar to the present one, because of fraud they have both had a long duration. Fraud on the court prevents at least one party from presenting their case.

The case at bar is just such a case. The Respondent banks and their officers of the court lie so much that there is no opportunity to present a real case.

### 2. POLK'S LESSEE et al.

In *Polk's Lessee v Wendell 30, U.S. 308* this Court held that those that come in with a void grant-void because of improprieties , can not acquire anything.

3. VANCE v BURBANK

In *Vance v Burbank 101 U.S. 514,* the Court held that "To obtain relief on the ground of fraud, it must appear that a party was prevented from exhibiting his cause fully to the court, so that it may properly be said that there never was a decision in a real contest about the subject matter of inquiry"

4. MARSHALL v HOLMES

In *Marshall v Holmes 141 U.S. 589* the Court held that a circuit Court of the United States in the exercise of it's equity powers and the diversity jurisdiction over the parties may deprive a litigant of a state court judgment fraudulently obtained.

5. TOLEDO SCALE CO, TOLED COMPUTING CO.

In *Toledo Scale Co.v Computing Scale Co.261 U.S. 399,* this Court held that to justify setting aside a decree for the reason of fraud, it must appear that the fraud charged prevented a party from presenting a full and fair defense.

**D. Perjury**

18.U.S.C. # 1621 defines perjury as the crime of lying after having sworn to be truthful verbally or in writing.. The penalties are serious : a fine and up to five years incarceration. The harm caused by perjury varies, can be quite severe, and among is most devastating side effects is obstruction of justice which causes harm to individuals and the public interest.

In the matter at bar every pleading and every document provided by the banks and their officers of the court is knowingly perjured. -meaning they set out to commit perjury which has lasted for more than two decades.

In *Mesarosh* v *United States , 362 US 1* , Chief Justice Warren stated: "The dignity of the United States government does not permit the conviction of any person on tainted by perjury statements. Petitioner has not been convicted of anything, just robbed of her funds by chronic perjured statements and pleadings.

**E. The UCC Bank Rules.**

# 3-419 Conversion of instrument
(1) An instrument is converted when:
© It is paid on a forged instruments
(2) In an action against a drawee under subsection (1) , the measure of the drawee liability is the face amount of the instrument . In any other action under subsection (1) the measure of liability is presumed to be the full amount of the instrument

Subsection (1)© adopts the prevailing view of decisions holding that payment on a forged endorsement , even though made in good faith, is still an exercise in dominion and control over the instrument inconsistent with the owner, and results in banking liability for the conversion.

**F. Decisions by the highest level courts in NY State- the domicile of M&T and HSBC banks.**

In *Tette v Marine Midland banks (now HSBC App Div . 435 NY , S 2nd , 412* regarding the conversion of a forged check in amount of $65.537 ,deposited in their bank which was then paid on the forgery. The Appellate court citing UCC 3-419 ordered summary judgment to the party that had appealed (Tette) The Appellate Court noted that upon their review of the record they noted that MM failed to provide any proof that they acted in a commercially reasonable manner ..

The NY Court of Appeals decided a case titled *Mouradian v Astoria Fed Sav. Bank et al 689 NE 2nd 1386* , which

involved a forged check for $37.800 and the Court of Appeals again cited UCC 3-419 (2) and held the drawee bank responsible for the sum of the check. Petitioner's stolen checks -there were two were for $.95.600

. **G. The expectation, promise and defeat.** .

" The very essence of civil liberty consists in the right of every individual to claim the protection of the laws whenever he receives an injury. One of the first duties of government is to afford that protection. in Great Britain the king himself is sued in the respectful form of a petition, and he never fails to comply with the judgment of the court. The government of the United States has been emphatically termed a government of laws and not of men. It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right It is the essential criterion of appellate jurisdiction that it revises and corrects the proceedings in a cause already instituted , and does not create the cause. A law repugnant to the constitution is void, and courts are bound by that instrument."
*Marbury v Madison , 5 U.S. 132.*

Petitioner expected the fulfilment of this promise to become a reality to enable her and the nine attorneys that had previously represented her , or the more than 22 courts state and federal that have been lied to by the respondents and their hired officers of the court, but thus far it has all been defeat.

Petitioner has done nothing wrong but yet has been victimized for decades. This journey is reminiscent of trying to recover ones property form Nazi's in a process which Petitioner who is a European-American knows very well ,and believes that this Court may also have familiarity with same..

**H... Respondents depravity of stealing Petitioner's funds and engaging in decades of perjury, deceit and other frauds, has caused serious harm to Petitioner.who sorely needed them.**

The loss of Petitioner's funds for all these years, the loss of the income generated, the loss of investment potential and interest generated , in addition to legal fees and legal costs , have been calculated in totality to be $750.000 before other damages considered. .

Respondents and their lying officers of the court have never denied their embezzlement and theft of Petitioner's funds , nor have they denied their liability .All their gangsterism , lies perjury forgery and fraud, had become a sport and an attempt to bully and intimidate Petitioner., while also .keeping score of how many courts they can lie to, bamboozle, and generally deceive.

**I. Supreme Court action is the only remedy.**

In *Florida v Rodriguez , 469 U.S. 1.* Justice Stevens said "As the Court of last resort in the federal system we have supervisory authority and occasionally perform an error correcting function in federal litigation. We do not have comparable responsibility to correct mistakes that occur in thousands of state tribunals "The matter at bar started in a state court has been pursued in the federal court system in recent times., and error correcting is critical.

Petitioner is seeking relief on grounds of fraud , because she was prevented from exhibiting the case fully , therefore there never was a decision in a real contest about the subject matter of inquiry. Vance v Burbank, 101 U.S. 514 As the Petitioner of a claim at last resort the Supreme Court as the Court of last resort must intervene, because the fraud has prevailed until now, and there is no other corrective action possible

## J. CONCLUSION

When the case at bar has been going on for more than two decades despite diligent prosecution by many on Petitioner's behalf, and Petitioner herself, when through no fault on her part - her funds having been stolen , and through no fault on her part she has been denied valid judicial intervention and justice, and somehow the majesty of our Constitution can not help, than this Court is the last helping institution and the last helping hand

The facts support Petitioner, the law supports Petitioner. What stands in the way is a racketeering conspiracy by a gaggle of miscreant officers of the court, and two corrupt banks: M&T and HSBC .

This is a reminder of other ugly circumstances like Nazi Germany -something Petitioner who is a European American knows very well, wherein certain .individuals and their lies robbed people of their property. But ultimately they had to return it..

.

It is not in the public interest to enable corrupt institutions and individuals especially officers of the court to sully our courts and laws , and avoid accountability for more than two decades. The public interest is gravely injured when banking institutions and officers of the court become a RICO enterprise.

What is desperately needed is for this Honorable Court to intervene, to grant the habeas corpus petition, to exercise it's supervisory and appellate authority and put an end to this nightmare, along any other relief this Court deems appropriate.

March 21, 2011

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